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May 18, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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By Hand Delivery

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: **Ex Parte Presentation**
GEN Docket No. 90-314
PP Docket No. 93-253

Dear Mr. Caton:

Pursuant to 1.1206(a)(1) and (2) of the Commission's Rules, this is to advise that on May 18, 1994, representatives of Concord Telephone Company, Ellerbe Telephone Company, Horry Telephone Company, Rock Hill Telephone Company and Yadkin Valley Cooperative met with Commissioner Andrew Barrett, James Coltharp, special advisor to Commissioner Barrett and Ralph Haller, Chief, Private Radio Bureau to discuss the attached Position Paper, two copies of which are hereby submitted to the Commission.

The representatives of the above small independents were Mike Coltrane, President and Barry Rubens, Manager, Regulatory Affairs, Concord Telephone Company; Dan Bennett, President, Ellerbe Telephone Company; Curly Huggins, Manager, Horry Telephone Company; Henry Miller, Vice President Engineering and Planning, Rock Hill Telephone Company and Jeff Adams, General Manager, Yadkin Valley Cooperative and Anthony Harrington and Joel Winnik, their counsel.

These small independents seek (1) a change in the Commission's definition of rural telco to ensure that all small independents with fewer than 100,000 access lines are not unfairly excluded from full participation in PCS or, in

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the alternative, (2) the application of the cellular eligibility rules only to Class A telephone companies (revenues in excess of \$100 million).

Respectfully submitted,


Joel S. Winnik

Counsel for
Concord Telephone Company
Ellerbe Telephone Company
Horry Telephone Company
Rock Hill Telephone Company
Yadkin Valley Cooperative

cc: Commissioner Andrew Barrett
James Coltharp
Ralph Haller

Attachment

The small independent telephone companies of the MTA #09 (North Carolina, South Carolina and part of Georgia) request the Commission's consideration of this important proposed change to the PCS eligibility rules:

Definition of rural telco should specify threshold of 100,000 access lines; and PCS eligibility rules should not apply to such telcos.

If Commission cannot change definition of rural telco as above, then Commission should simply apply eligibility rules only to Class A telcos (over \$100M in revenues).

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- Purpose of eligibility rules is to protect competition by preventing major cellular interests from also taking significant positions in overlapping PCS licensees.
- Rules properly reach largest telephone companies who dominate cellular operations, but are so broad that they also prevent small independents from pooling resources to bid for MTAs in their home territories and, in some cases, prevent small independents from bidding for 20 MHz BTAs in their home territories.
- Small independents' role in cellular today is very limited: they are almost always limited partners holding only very small percentages of ventures which are controlled by Class A companies, and none of them have the size or financial muscle to jeopardize competition.
- Small independents were encouraged by Commission to enter into these cellular arrangements to avoid protracted hearings and negotiations and hasten cellular roll-out.
- They will now be penalized for their cooperation if new rules prevent them from becoming meaningful PCS competitors. Rules should not again tie their hands, this time by restricting them to less desirable 10 MHz BTA channel.

- **Strong public interest benefits of small independents' participation in MTAs and 20 MHz BTAs:**
 - **Creates whole new class of additional competitors in critical MTA and 20 MHz BTA channels.**
 - **May be the only companies capable and willing to quickly build out rural areas.**
 - **Allows small independents to enhance their telephone operations and meet effectively the competition from MTA and 20 MHz BTA operators who will use wireless services to cream-skim the small independent wireline business.**

Note: Use of Class A threshold in eligibility rules is virtually the same as use of 100,000 access line threshold, but it doesn't expand number of companies qualifying as Designated Entities.

SMALL INDEPENDENT TELEPHONE COMPANIES OF MTA #09

Atlantic TMC (NC)
Bluffton Telephone Company (SC - located in MTA #01)
Chesnee Telephone Company (SC)
Chester Telephone Company (SC)
Citizens Telephone Company (NC)
*Concord Telephone Company (NC)
*Ellerbe Telephone Company (NC)
Farmers Telephone Cop. (SC)
Fort Mill Telephone Company (SC)
Hargray Telephone Company (SC - located in MTA #01)
Hart Telephone Company (GA)
Heath Springs Telephone Co. (SC)
Home Telephone Company (SC)
*Horry Telephone Cooperative (SC)
Lancaster Telephone Company (SC)
Lexington Telephone Company (NC)
Lockhart Telephone Company (SC)
Mehtel Communications (NC)
North State Telephone Company (NC)
Palmetto Rural Telephone Coop. (SC)
Piedmont Rural Telephone Coop. (SC)
Piedmont TMC (NC)
Pond Branch Telephone Company (SC)
Randolph Telephone Company (NC)
Randolph TMC (NC)
Ridge Telephone Company (SC)
Ridgeway Telephone Company (SC)
*Rock Hill Telephone Company (SC)
Sandhill Telephone Cooperative (SC)
Skyline TMC (NC)
Star TMC (NC)
Surry TMC (NC)
Tri-County TMC (NC)
West Carolina Rural Tel. Coop. (SC)
Wilkes TMC (NC)
*Yadkin Valley TMC (NC)

* Representatives meeting with FCC officials.